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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of resolution S-3/1 of 25 May 1994

Introduction

1. In accordance with the mandate entrusted to him by the Commission on Human Rights in its resolution S-3/1 of 25 May 1994, the Special Rapporteur made a second visit to Rwanda from 29 to 31 July 1994. The purpose of this visit was to assess the situation of human rights in Rwanda since the finalization of the preliminary report which the Special Rapporteur had submitted to States members of the Commission on Human Rights on 28 June 1994 (E/CN.4/1995/7) and to establish contact with the new Rwandese authorities in order to discuss with them problems relating to human rights and, in particular, the situation of the refugees and displaced persons.

2. The Special Rapporteur was able to hold talks on 28 and 29 July 1994 in Nairobi, and from 29 to 31 July in Kigali and Gitarama, with representatives of the new Rwandese Government, senior officials of various United Nations agencies working in Rwanda and representatives of non-governmental organizations. The persons he met included: Mr. Paul Kagame, Vice-President of the Republic and Minister of Defence; Mr. Faustin Twagiramungu, Prime Minister; Mr. Alphonse-Marie Nkubito, Garde des Sceaux, Minister of Justice; Mr. Jean-Marie Vianney Ndagijimana, Minister for Foreign Affairs; Mr. Joseph Nsengumana, Minister of Higher Education and Scientific Research; Mr. Mugbo Rie, Minister of Labour and Social Affairs; Mr. Shahryar Khan, Special Representative of the Secretary-General for Rwanda; General Roméo Dallaire, Force Commander of the United Nations Assistance Mission to Rwanda (UNAMIR); Mr. Michel Moussalli, Special Envoy of the United Nations High Commissioner for Refugees (UNHCR); Mr. Arturo Hein, Humanitarian Coordinator of the United Nations Rwanda Emergency Office (UNREO), and his Executive Director; Mr. Bernard Kouchner; and the Liaison Committee of Human Rights Leagues and Associations in Rwanda (CLADHO).

3. The Special Rapporteur wishes to express his thanks to all these persons who assisted him and thus facilitated his visit, in particular to the Force Commander of UNAMIR for his logistic support.

4. As a result of the various talks held, it was possible to assess the situation prevailing in Rwanda, stress being laid on the insecurity and the return of refugees and displaced persons, and to reach agreement with the authorities on certain points.

I. THE INSECURITY IN RWANDA

5. The fundamental problem raised by the current situation in Rwanda is that of security. The end of the armed conflict has not put an end to insecurity. The hostilities have left in their train nothing but ruin and desolation: great loss of human life, considerable damage to property, bereaved families, towns emptied of their inhabitants, etc.

6. Admittedly, since the fall of Gisenyi on 15 July 1994 and the cease-fire, life is gradually beginning to reappear. In Kigali and Gitarama shops are being cleaned or are already open, small markets are opening here and there, and the large market in Kigali reopened on 27 July. The Special Representative of the Secretary-General for Rwanda remains fairly optimistic, taking the view that "a great change will occur" in two or three months' time, meaning that life will return to normal. But the chief concern of insecurity remains. It is characterized by three essential features; the illegal occupation of abandoned houses; banditry and summary executions; and the virtual non-existence of administration by the State.

A. The illegal occupation of abandoned houses

7. People are illegally occupying houses abandoned by their fleeing owners or tenants. The most difficult case seems to be that of former refugees, particularly those who fled the country after the massacres of recent years. On returning to Rwanda, they claim their land and settle in the houses of displaced persons or other refugees. The Government is thus confronted with

an awkward dispute, which is all the more serious since public buildings are in some cases also occupied illegally. The Public Prosecutor's Office in Kigali has thus been converted into a restaurant, with placards stating that fact, and legal files have been converted into charcoal for fires to make porridge and tea.

8. Admittedly, the Government has set up an inter-ministerial committee, headed by the Ministers of the Defence and the Interior, with the aim of restoring the rights of owners, considering that they have priority over the former refugees. However, the problem will be only partly resolved, not to say moved elsewhere, since it is necessary to find houses to accommodate the new arrivals and land available for building or the growing of crops. The difficulty here lies in the fact that Rwanda is only 26,338 square kilometres in area for a population estimated at roughly 8 million before the hostilities; in other words, it has a very high density of 350 inhabitants per square kilometre. The question arises whether the heavy losses caused by the massacres, and then the epidemics will be offset by the return of the former refugees. The difficulty can be grasped more clearly if one remembers that the overpopulation of Rwanda is one of the underlying causes of the armed conflict. In addition to this difficulty, there is the problem of banditry and summary executions.

B. Banditry and summary executions

9. In the towns in Rwanda banditry and robbery are rampant. Armed gangs ransack houses and huts. There are also reports of disappearances and abductions, as well as summary executions. The latter acts are, according to persistent rumour, the work of the Rwandese Patriotic Front (FPR). The members of the Government, who implicitly acknowledge the facts, do not attribute responsibility to the FPR. They do not, however, deny the fact that rogue elements of the FPR or the army may engage in such acts as reprisals. But responsibility for the disappearances and summary executions may also be attributed to victims' relatives taking vengeance on the murderers or members of their families. Mention is also made of members of militias in Kigali and certain other parts of Rwanda. They are reportedly threatening to continue their summary executions and have already killed a soldier and thrown him into a sewer. The new Government has apparently undertaken "immediate action against the troublemakers" to ensure the security of persons and property. But this initiative is jeopardized by the non-existence of a genuine administrative structure.

C. The virtual non-existence of administration by the State

10. The virtual non-existence of administration by the State constitutes the third element which, in fact, possibly accounts for the other two. The former political, judicial and administrative authorities, dominated by the Hutu ethnic group, fled the country at the same time as the members of the armed forces as the FPR army advanced. Many officials of the central and local administration, particularly prefects and mayors, thus deserted the country, as did magistrates and, above all, members of the security forces, the police force and the army. The media thus reported, on Tuesday, 2 August 1994, the presence in Goma of some 20,000 government troops. This could be a considerable underestimatation.

11. The FPR, which has won a military victory, has only an embryonic administration, a war administration, which at the present time is fulfilling a transitional role; in fact, everything remains to be done. The country needs to be rebuilt virtually from nothing. The critical situation of insecurity in Rwanda is not reassuring for those who live there, and even less for the refugees whose return is earnestly desired by the international community.

II. THE RETURN OF THE REFUGEES AND DISPLACED PERSONS

12. The chief concern of the international community at the present time is the return of the refugees and displaced persons to Rwanda. These people are living in precarious conditions but are loath to return out of fear of reprisals by the new authorities - notwithstanding the measures taken to reassure them.

A. The distressing living conditions

13. The Rwandese refugees have been and still are living in distressing and tragic conditions as a result of their exodus and exile.

1. The exodus

14. Fleeing the victorious advance of FPR elements, millions of people burst across the borders of neighbouring States in search of refuge, particularly in Zaire. The number of these refugees is simply huge. One international weekly reported on 28 July 1994 that 12,000 refugees an hour were arriving in Goma. Other sources within United Nations agencies put the figure at 20,000 an hour. In addition to civilians, there were several thousand government soldiers, mingling with or following the throng.

15. This human tidal wave brought with it not only hunger, thirst and exhaustion due to the long walk and the weight of baggage, but also numerous accidental deaths (trampling underfoot, suffocation, etc.) and murders. Moreover, the arrival of the survivors brought no relief from their suffering, as their living conditions were equally distressing.

2. The refugees in exile

16. The exodus of Hutu served to deplete the population of Rwanda still further. At the end of July, the number of refugees created by the war and the massacres was estimated at approximately 2.5 million. The refugee population is distributed as follows: 1.2 million at Goma, 500,000 in Sud-Kivu, 300,000 to 400,000 in the United Republic of Tanzania, 150,000 in Burundi, and 10,000 to 12,000 in Uganda. Goma, which is the base for "Operation Turquoise", has thus become the leading refugee centre, ahead of the Bénaco camp in Tanzania. A tragic situation arose from the fact that Goma, which previously had only 300,000 inhabitants, experienced a sudden influx of an additional 1.2 million persons, thus quadrupling its population. The overpopulation of this Zairian city, in precarious living conditions, contained the seeds of a human tragedy which made it a case on its own. The consequences were predictable. Famine was followed by a cholera epidemic, which killed several thousand persons. The figures given are imprecise and in

dispute, varying from one source to another, but the number of deaths is estimated at between 20,000 and 50,000. The cholera epidemic was compounded by a recent outbreak of dysentery, which might perhaps be of epidemic proportions. Journalists have added to the list of Rwanda's ills the threat of a volcanic eruption (involving two volcanoes, the Nyiragongo and the Nyamuragira, situated a few dozen kilometres north of Goma, as reported in the international press of 24-25 July 1994).

17. Despite these sufferings, the refugees are hesitant to return to their country because they fear for their lives.

B. The fear of reprisals

18. The Hutu refugees in the various neighbouring States, and more particularly those at Goma, want to return home, but are afraid that the new, predominantly Tutsi political authorities may take vengeance and massacre them. They are thus caught in a difficult dilemma, the only available option being either to die of disease (cholera, dysentery, etc.) or to risk reprisals. Their fears, which originated in the genocide against the Tutsi, are nurtured and indeed exacerbated by Radio Télévision Libre des Mille Collines (RTLM) and by the former Government in exile.

1. The activities of the RTLM

19. The RTLM has continued its campaign of incitement to ethnic hatred and violence. It reportedly called on the Hutu to leave Rwanda and take refuge outside the country, particularly in Zaire, for fear of being massacred by the new authorities. The appeal itself is said to have been accompanied by barely concealed reprisals against recalcitrants. In this connection, the Special Rapporteur has been informed of one of the sayings going round in Goma: "The wolves sleep with the sheep". And the wolves tell the sheep "Don't go back, stay with us", implying that, should the sheep refuse, they would suffer the inevitable penalty of being eaten by the wolves.

20. The pressure exerted by the RTLM is made all the stronger and more effective by the fact that it is well known as the radio of the Rwandese and that the Rwandese have a "radio culture", with their radios turned on practically all the time. At one point public opinion was pleased to learn that "the radio that kills" had stopped broadcasting, and it was even reported that French troops had neutralized it. However, this proved to be untrue, since as soon as Monday, 1 August 1994, the international press was again deploring its existence and the campaign orchestrated by it.

2. The activities of the former Government

21. The campaign conducted by the RTLM backs up the activities of the former Rwandese authorities. Concordant and reliable testimony reveals that those authorities called upon the Hutu population to follow them into exile, raising fears that it would be massacred by the RPF and the Tutsi. This appeal reportedly formed the subject of a full-fledged campaign by the media, prefects, army and gendarmerie officers and mayors. It appears to have been seen much more as an order than as a mere recommendation, with those to whom the message was addressed not having a choice. Large numbers of Hutu

were forced to follow, thus becoming what can only be described as hostages, while those who refused were considered as collaborators with the Tutsi and were massacred as a result. In this connection, there are reports that a number of people, including a teacher, testified that they had gone to Goma against their will "in order not to risk their lives". All the signs are that this mass exodus of people to the States bordering Rwanda, and more especially Zaire (Goma), was not spontaneous and disorderly but forced and planned. The Hutu are afraid both of the massacres allegedly perpetrated by the new Tutsi authorities and of those actually committed by the former Hutu authorities. This situation has led the FPR, under pressure from the international community, to take measures to reassure the refugees and displaced persons.

C. Measures to reassure the refugees and displaced persons

22. Various measures have been taken by the new Government and the international community to encourage the refugees and displaced persons to return home.

1. The new Rwandese Government

23. The new Rwandese Government has basically done two things to encourage Rwandese to return to the country.

24. The first is the statements made by the highest authorities of the State. The President of the Republic, the Vice-President and the Prime Minister have all called upon the refugees to return, assuring them that they have nothing to fear either for their person or for their property. They have been told that they will recover what they left behind and that their rights will be given priority over those of earlier refugees. Such a commitment - admittedly given at the domestic level, but under the gaze of the international community - is not without genuine significance. However, some observers fear that the refugees do not have access to the information broadcast over Rwandese radio because the broadcasting range is limited to the Kigali region. Members of the Government have, however, said that this objection is only relative, and applies only to FM radio broadcasts. The important question here is whether the refugees listen or have the time to listen to Rwandese radio. Moreover, even supposing they do, might they not consider the Government's pledge as mere political rhetoric or even a trap, bearing in mind the whole campaign orchestrated by the former Rwandese authorities? Consequently, statements must be followed up as soon as possible by specific implementation measures in order to win over sceptical refugees.

25. The second Government act was the agreements concluded by the President of the Republic at the end of July 1994 with his four counterparts in the neighbouring States of Zaire, Tanzania, Burundi and Uganda. In these international instruments, the States concerned basically agree on four points:

(a) The return of the refugees to Rwanda in complete freedom;

(b) The non-use of the territories of the States of refuge as a base for destabilizing Rwanda;

(c) The disarming of military personnel and other armed persons;

(d) The immediate closing down of mobile radios, where they exist, that incite people to ethnic hatred.

26. Were they to be applied, these agreements would serve to encourage the return of the Hutu refugees to Rwanda. However, these measures are not enough in themselves and must be complemented by action on the part of the international community.

2. The international community

27. The term "international community" must be interpreted lato sensu as encompassing not only United Nations bodies but also member States and the various non-governmental organizations helping to safeguard human lives in the field.

28. The international community, in this broad meaning, has taken a whole series of measures designed to promote the return of the refugees and displaced persons in full security. Without listing them all, a few of the more recent ones may be mentioned by way of illustration:

(a) the establishment of humanitarian staging posts along the routes taken by returning refugees is contemplated by UNHCR and UNAMIR. These "humanitarian routes" would, in particular, link Goma and Bukavu to Kigali and there would be water, food and medicine supply posts at regular intervals;

(b) Technical and logistic support and delivery of provisions is envisaged, not in the refugee camps or on the "humanitarian routes", but directly in Rwanda. This is the strategy adopted by the United States of America to attract the refugees and thus promote their return to Rwanda. A start has already been made in implementing this policy, with the disembarkation of United States troops and equipment on Sunday, 31 July 1994;

(c) The creation of radio stations broadcasting information to the refugees. Such information would relate to their security and would offset the alarmist rumours spread by Hutu extremists. Two radio stations have already been set up for this purpose. The first, run by the Swiss section of Reporters without Borders under the direction of the journalist Philippe Dahinden, has in principle begun broadcasting from Bukavu in Zaire, while the second, also run by Reporters without Borders, should broadcast from Goma. However, these measures are still not enough, and the Special Rapporteur has therefore put forward a number of proposals that have received the agreement of the Government.

III. PROPOSALS AND RECOMMENDATIONS

29. In his discussions with members of the Government, the Special Rapporteur made a number of suggestions or proposals which were favourably received. These proposals, some of which, it is true, already seemed to have been adopted, are designed essentially to encourage the return of the refugees and social peace in Rwanda. They relate to non-recourse to reprisals, additional measures of reassurance and deployment of United Nations human rights experts in the field.

A. Non-recourse to reprisals

30. The main aim of the Special Rapporteur's approach to the new authorities in Kigali was to make sure that they would not engage in summary executions. The Special Rapporteur was satisfied by the reply that he received from the various personalities he met, a reply which was in fact completely unambiguous. It may be summarized as follows: the new Government pledges not only to refrain from taking measures or acts of reprisal but also to punish any persons engaging in such acts. The Prime Minister stated: "I undertake not to permit any summary executions, and any persons guilty of such executions will be punished ... Impunity cannot be tolerated in this country."

31. Impunity being one of the sources of serious human rights violations, including genocide, in Rwanda, the Government asserts its firm determination to eliminate it. To this end, a rapid reorganization of the judicial machinery is being undertaken by the Minister of Justice. It was also asserted no less firmly that non-recourse to reprisals and the prosecution of those guilty of genocide, a question which is inextricably linked with it, are essential conditions for the national reconciliation and unity that are vitally necessary. The Special Rapporteur took note with satisfaction of these views, which coincide with those he expressed in his preliminary report.

32. Non-recourse to reprisals, as referred to in the aforementioned statements by the three leading political figures of the State and which does not exclude prosecution of persons guilty of genocide, has a twofold objective. Firstly, in the immediate future, the aim is to reassure refugees that they can return to their land and homes in complete peace of mind and security. The second goal, over the longer term, is to prevent individuals from taking the law into their own hands and thus bring lasting social peace back to Rwanda.

33. In the immediate future, however, this position, praiseworthy and commendable though it is, is nevertheless limited. The Special Rapporteur therefore proposed additional measures.

B. Additional measures of reassurance

34. The Special Rapporteur suggested that the political authorities should take a number of specific measures, in addition to those already adopted, in order to further reassure the refugees. Those suggestions concern both immediate and short-term measures.

1. Immediate measures

35. Immediate measures include:

(a) An information campaign aimed at the population within Rwanda, deploring and condemning the massacres, extending sympathy to victims and bereaved families, assuring them that the guilty will be tried and punished by the courts and urging them to refrain from taking the law into their own hands, on pain of severe penalties;

(b) Circulars, service notes and instructions addressed to all national or local authorities, calling on them not to tolerate any act of reprisal and to institute proceedings against any persons guilty of such acts;

(c) Regulations prohibiting and laying down heavy penalties for acts of incitement to ethnic hatred or violence. In this connection, the Special Rapporteur welcomed the fact that, according to members of the Government, the new identity cards no longer contain a reference to ethnic origin.

2. Short-term measures

36. The short-term measures recommended by the Special Rapporteur have to do mainly with education regarding human rights and strict respect for human dignity. This education would be provided both by schools and by radio broadcasts. It would be a matter simply of incorporating it into curricula and programmes. The short-term impact of such action can be gauged in terms of Rwanda's "radio culture" and its medium-term impact in terms of the school's role in educating future generations.

37. Long-term measures should be taken as soon as possible and supplemented by the deployment of United Nations human rights experts in the field.

C. Deployment of United Nations human rights experts

38. The Special Rapporteur finally secured the Rwandese authorities' acceptance of the idea of deploying United Nations human rights experts throughout the country. He emphasized the role of such experts and the plan of action for them.

1. The role of United Nations human rights experts

39. The presence of experts in the field presents definite advantages by virtue of the various roles which they can play: persuasion, deterrence, prevention and defence.

40. The first involves restoring the confidence of the refugees and displaced persons so that they can return with complete peace of mind; the presence of such experts is in itself reassuring in that it can provide them with a guarantee against further massacres. It is also a deterrent in that the new authorities will beware of carrying out reprisals in the presence of United Nations experts who, in addition, will ascertain the good faith of the authorities and their sincerity in not carrying out reprisals.

41. Deterrence leads to prevention in that it prevents further violations of human rights by virtue of the presence of United Nations experts who will monitor the return of the refugees, making sure of their safety and helping them to settle in again, with their rights being strictly observed. Finally, defence will purely and simply involve assisting with inquiries in the field in order to determine the facts regarding the various violations of human rights by the parties to the conflict and the perpetrators of massacres and genocide.

2. Plan of action

42. The action envisaged by the Special Rapporteur comprises three stages. Firstly, to take account of the limited resources of the Centre for Human Rights and the urgency of the matter, the number of United Nations experts would be restricted to 20 assigned as follows:

(a) Ten to monitor the refugees over the entire length of the "humanitarian routes" referred to above;

(b) Ten others, one in each of the following 10 major population centres: Kigali; Butare (136 km from Kigali); Byumba (75 km); Gitarama (53 km); Kibungo (108 km); Kibuye (139 km); Gisenyi (175 km); Gikongoro (165 km); Ruhengeri (116 km); Cyangugu (291 km). As the refugees and displaced persons reach their homes, the experts deployed along the "humanitarian routes" could reinforce those assigned to the above-mentioned locations.

43. In a second phase, as soon as resources allow, the United Nations should deploy between 150 and 200 experts throughout Rwanda for a period of not less than six months, in order to monitor not only the return, but also the reconstruction of Rwanda, and to conduct the necessary inquiries to ascertain the facts regarding the massacres. In this way, the plan will come into full operation during the difficult initial period of national reconstruction when human rights and fundamental freedoms could be open to serious violations.

44. Thirdly, at the end of the period of national reconstruction, the United Nations should begin to gradually withdraw its experts in the field, leaving only about 50 of them to conclude the inquiry by the end of the Special Rapporteur's mandate.

45. Collectively, these measures, if implemented, should overcome the reluctance of refugees and displaced persons, enable them to return en masse and guarantee their safety. At present, the United Nations escort operations have been interrupted in order to avoid importing the cholera epidemic into Rwanda. It is to be hoped that the epidemics will soon be halted and that the Rwandese refugees will be able to return to their lands and their homes without difficulty.

46. International assistance with the reconciliation and reconstruction efforts in Rwanda is vital. Accordingly, the Special Rapporteur associates himself with the urgent appeal made by the United Nations High Commissioner for Human Rights on 2 August 1994 to the international community for voluntary contributions to support the early deployment of human rights experts in the field, with the necessary logistical backup.

47. Inquiries are currently being conducted in south-western Rwanda by the team of human rights experts established by the High Commissioner for Human Rights. They will shortly be the subject of a report.